



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

MARK R. BRINKER, MD

Respondent Name

LM INSURANCE CORPORATION

MFDR Tracking Number

M4-16-1696-01

Carrier's Austin Representative

Box Number 01

MFDR Date Received

February 19, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "This code 27685/80 was paid per the surgeon and no you all denied the assistant as bundled this is not a bundled procedure."

Amount in Dispute: \$149.97

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "CPT 27685 was denied as This separate independent procedure is considered an integral part of the total services performed and does not warrant a separate charge. . . . If the code descriptor of a HCPCS/CPT code includes the phrase, 'separate procedure', the procedure is subject to NCCI PTP edits based on this designation."

Response Submitted by: Liberty Mutual

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 16, 2015	Assistant at Surgery Services Procedure Code 27685	\$149.97	\$75.80

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203 sets out the fee guideline for professional medical services.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - U008 – THIS SEPARATE INDEPENDENT PROCEDURE IS CONSIDERED AN INTEGRAL PART OF THE TOTAL SERVICES PERFORMED AND DOES NOT WARRANT A SEPARATE CHARGE.
 - 193 – ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW, IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY.

Issues

1. Are the insurance carrier's reasons for denial or reduction of payment supported?
2. What is the recommended reimbursement for the disputed professional medical services?
3. Is the requestor entitled to additional reimbursement?

Findings

1. The insurance carrier denied disputed services with claim adjustment reason code U008 – "THIS SEPARATE INDEPENDENT PROCEDURE IS CONSIDERED AN INTEGRAL PART OF THE TOTAL SERVICES PERFORMED AND DOES NOT WARRANT A SEPARATE CHARGE." 28 Texas Administrative Code §134.203(b) requires that

For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following:

- (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules.

The respondent contends, "CPT 27685 was denied as This separate independent procedure is considered an integral part of the total services performed and does not warrant a separate charge. . . . If the code descriptor of a HCPCS/CPT code includes the phrase, 'separate procedure', the procedure is subject to NCCI PTP edits based on this designation."

While the insurance carrier is correct that the billed services are subject to NCCI edits, in this case, however, review of the submitted medical bill finds that there are no underlying CCI edits for the code-pair(s) billed by the assistant at surgery on the medical bill in dispute. The insurance carrier has misapplied this Medicare payment policy. The 'separate procedure' designator is an explanation of the rationale to support a CCI edit in those instances where a code-pair edit has been identified. But as there is no applicable CCI edit for this service as billed, the 'separate procedure' code descriptor is not a valid reason to deny payment.

The insurance carrier's denial reason is not supported. The disputed services will therefore be reviewed for payment in accordance with applicable Division rules and fee guidelines.

2. This dispute regards professional medical services with reimbursement subject to the provisions of 28 Texas Administrative Code §134.203(c), which requires that:

To determine the MAR [Maximum Allowable Reimbursement] for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

- (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.
- (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year.

The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by a conversion factor. The MAR is calculated by substituting the Division conversion factor. The applicable Division conversion factor for calendar year 2015 for surgery performed in a facility setting is \$70.54.

Reimbursement is calculated as follows:

- For procedure code 27685, service date July 16, 2015, the relative value (RVU) for work of 6.69 multiplied by the geographic practice cost index (GPCI) for work of 1.019 is 6.81711. The practice expense (PE) RVU of 5.74 multiplied by the PE GPCI of 1.006 is 5.77444. The malpractice RVU of 0.88 multiplied by the malpractice GPCI of 0.955 is 0.8404. The sum is 13.43195. This procedure was performed in conjunction with surgery code 27870, and is therefore subject to multiple surgical procedure payment reduction of 50%. The sum of 13.43195 multiplied by 50% is 6.715975. Additionally, the provider billed this service with Assistant-at-Surgery modifier 80. Per Medicare payment policy (see *Medicare Claims Processing Manual*, CMS Publication 100-04, Chapter 12, Physicians/Nonphysician Practitioners, §20.4.3 – Assistant-at-Surgery-Services) "For assistant-at-surgery services performed by physicians, the fee schedule amount equals 16 percent of the amount otherwise applicable for the surgical payment." Accordingly, the adjusted sum of 6.715975 multiplied by 16% is 1.074556. This amount is multiplied by the Division conversion factor of \$70.54 for a MAR of \$75.80. This amount is recommended.
3. The total allowable reimbursement for the services in dispute is \$75.80. The insurance carrier has paid \$0.00. The amount due to the requestor is \$75.80.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$75.80.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$75.80, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	Grayson Richardson	April 4, 2016
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.